(3)

Supreme Court, U.S.
FILED
DEC 29 1986
JOSEPH F. SPANIOL, JR.
CLERK

86-1079

No.

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1986

STEPHEN A. KOCZAK, KATHERINE E. ROTTER, and JOHN G. RESCH,
Appellants,

v.

G. DALLAS DIXON, THE MERCER COUNTY DEMOCRATIC CENTRAL COMMITTEE, JEFFREY LAURENTI, HOWARD KAYE, GERALD STOCKMAN, LOUISE LOMMA, JANE BURGIO, W. CARY EDWARDS, THOMAS H. KEAN,
Appellees.

On Appeal from the United States Court of Appeals for the Third Circuit

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Appendix Vol. II

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Joseph F. Shanahan
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No.

IN THE
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STEPHEN A. KOCZAK, KATHERINE E. ROTTER, and JOHN G. RESCH,
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G. DALLAS DIXON, THE MERCER COUNTY DEMOCRATIC CENTRAL COMMITTEE, JEFFREY LAURENTI, HOWARD KAYE, GERALD STOCKMAN, LOUISE LOMMA, JANE BURGIO, W. CARY EDWARDS, THOMAS H. KEAN,
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W. CARY EDWARDS
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By: DONNA KELLY-BOCCHER
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CERTIFICATION IN OPPOSITION
TO PRELIMINARY INJUNCTION.

STEPHEN A. KOCZAK, et al.,

Plaintiffs,

v.

G. DALLAS DIXON, et al.,

Defendants.

GEORGE H. BLOOM, JR., being aware of the penalties for perjury, certifies to the Court, pursuant to 28 U.S.C. §1746, that the following statements are true and correct:

1. I am the Supervisor of Election Administration, Division of Elections, within the Department of State of New Jersey. My duties are to assist the Secretary of State in the performance of the responsibilities imposed upon her by Title 19 of the New Jersey revised Statutes.

2. The primary duties of the Office of the Secretary of State with respect to primary elections conducted within New Jersey are as follows. The Office accepts for filing the nomination petitions for federal and State offices. Upon acceptance of such petitions, the Office certifies the names of the candidates to the county clerks for printing of the ballots. The Secretary of State has absolutely no legal authority to print ballots.

3. Pursuant to N.J.S.A. 19:23-17, a candidate for a primary election is

permitted to include within his or her petition, a slogan or designation for printing on the ballot which states the candidate's policies or party faction affiliation. If the slogan contains the name of a person or reference to an incorporated association within the State, written consent of such person or association must accompany the petition. In the Commercial Registration Division of the Secretary of State's Office, incorporated associations are able to file with the Secretary specific designations which are for their exclusive use, unless another party is specifically permitted to use it.

4. On June 3, 1986 a primary election will be conducted in New Jersey, which will include elections for all the congressional districts within the State. The fourth congressional district includes

the Counties of Burlington, Mercer, Middlesex, Monmouth and Ocean. The last date for filing of nomination petitions was April 10, 1986.

5. On April 10, 1986, at 11:05 a.m. a petition nominating Jeffrey Laurenti for the Democratic primary election for the fourth congressional district contained the slogan, "Regular Democratic Organization," following the candidate's name.

6. On April 10, 1986, at 12:39 p.m., the nomination petition of Stephen A. Koczak was filed for the same congressional primary election. The petition included the slogan of "Regular Traditional Democrat."

7. The Commercial Registration Division of the Department of State has no record of any corporate filings on behalf of the Mercer County Regular Democratic Organization or any other similar name.

8. I know of no reason why a candidate would need a written consent for the use of the slogan, "Regular Democratic organization." Where written consent is not required for use of a slogan, the first candidate who submits it with his or her nomination petition is entitled to its exclusive use on the ballot.

9. The nomination petitions of Laurenti and Koczak were accepted by the Secretary's office and pursuant to N.J.S.A. 19:23-21, their names and representative slogans were sent to the five county clerks of the fourth congressional district for printing on the ballot. Thereafter, the Secretary has no legal authority regarding the manner and method of the ballots nor does she have any supervisory power over the county clerks.

GEORGE H. BLOOM, JR.

DATED:

W. CARY EDWARDS
Attorney General of New Jersey
Attorney for State Defendants
Richard J. Hughes Justice Complex
CN 112

By: DONNA KELLY-BOCCHER
Deputy Attorney General
(609) 292-1500

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CERTIFICATION IN OPPOSITION.
TO PRELIMINARY INJUNCTION.

STEPHEN A. KOCZAK, et al.,

Plaintiffs,

v.

G. DALLAS DIXON, et al.,

Defendants.

AUGUST BRUSCHINI, being aware of the penalties of perjury, certifies to the Court, pursuant to 28 U.S.C. §1746, that the following statements are true and correct:

1. I am the Deputy Superintendent of

Elections for the County of Mercer, State of New Jersey. My office includes responsibility for custody and preparation of voting machines.

2. Ballot inserts for the June 3, 1986 primary election have already been received from the Mercer County Clerk. The 254 voting machines which have been allocated for use in municipalities within the Fourth COngressional district for the primary election have been fully prepared, except for the insertion of ballot strips. That task is to be completed on or about May 15, 1986.

3. The candidates' inspection session under N.J.S.A. 19:48-6 has been scheduled for Tuesday, May 27, 1986, between 10:00 and 11:00 a.m.

4. The voting machines will be transported to the polling places beginning immediately after candidate inspections are

concluded on May 27.

5. If the machines had to be reset in the warehouse where they are presently located, the job would take seven to eight days of regular time (three eight-hour shifts per day) and cost about $1500. With round-the-clock work, the time might be shortened but the cost would be substantially greater.

6. I cannot begin to estimate the time and costs that would be involved in resetting the machines in the field. We have never had to reset all of the machines before, and the variables, such as travel time and the ability fo gain access from landlords, etc., make even a "guesstimate" impossible.

AUGUST BRUSCHINI

DATED:

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW JERSEY

Vicinage of Trenton

Civil Action
File No.

STEPHEN A. KOCZAK, et al.,

Plaintiffs,

vs.

AFFIDAVIT

G. DALLAS DIXON, et al.,

Defendants.

STATE OF NEW JERSEY :
: ss.
COUNTY OF MERCER :

TED M. YIM, of full age, affirms according to law deposes and says:

1. I am Deputy County Clerk for the County of Mercer. In this capacity I have the responsibility for the preparation of the ballot in all elections including the

primary election scheduled for Tuesday, June 3, 1986.

2. Pursuant to a request from Dave Demby I researched the status of the ballots for the afore-referenced election and the costs which are involved in changing the ballot.

3. All ballots for the election of June 3, 1986, previously described, have been printed. These include: sample ballots; absentee ballots; "machine strips"; and, ballots that are Spanish/English. The replacement costs for the afore-referenced ballots are $61,4900.00

4. If the Court should order on May 20, 1986 that the ballots for the County of Mercer be reprinted the earliest possible date for these ballots to be ready, on the normal work schedule would be June 2, 1986. If this were to happen the machines which

the "machine strips" (ballot inserts) are to be placed would no longer be in a centrally located location but rather would be over the entire congressional district, Mercer County, consisting of 252 districts.

5. As of May 13, 1986 this office has received 122 requests for absentee ballots. Of these requests 116 have been complied with, i.e., the absentee ballot has been sent to the person requesting it.

6. In determining the truth of the hereinabove assertions I have referenced all appropriate records and documents. More particularly, I am familiar with the process having been the Deputy County Clerk since 1981 and am familiar with the process having been the Deputy County Clerk since 1981 and am familiar with the election process. The above information comports with my general knowledge of the costs and practicalities of changing the ballot for

the entire congressional district, Mercer County.

TED M. YIM

Sworn and Subscribed to before me
this 15th day of May, 1986.

United States District Court
for the District of New Jersey

Civil Action No. 86-1856 (REC)

AFFIDAVIT

STEPHEN A. KOCZAK, et als.

Plaintiff

vs.

G. DALLAS DIXON, et als.

Defendant,

I, RANIERO M. TRAVISONO, of full age being duly sworn upon by oath depose and say:

1. I am the County Clerk of Middlesex County and charged with the responsibility of administering primary and general elections.

2. The status of the ballots for the June 3, 1986 Primary Election for the 4th. Congressional District is as follows:

a. The ballots for the entire 4th Congressional District within Middlesex

County consisting of Jamesburg, Monroe & Plainsboro have been printed.

b. The absentee ballots have been printed, punched and mailed to absentee voters.

c. The machine strips (ballots) have been proofread and are in the voting machines.

d. The sample ballots have been printed, proofread and are folded and ready for mailing.

3. To redo the entire 4th Congressional District, the following time frame would be necessary:

a. Absentee ballots - approximately two days.

b. Machine strips, printing and cutting - approximately two days.

c. Sample ballots, printing, proofread, folding - approximately two days.

d. Breaking down machines, removing

present strips, inserting new strips - unable to estimate time.

4. In my opinion, the work required only on the machines would require the warehouse ment to work overtime and delivery of the machines would be delayed.

5. It is also my opinion that the expense of redoing everything set forth above and the overtime for the Election Board, the warehouse people, the printer and my office would not only be prohibitive but would result in delays which would violate the time frames set forth in the statutes.

6. I make this Affidavit in response to the Plaintiff's Complaint and relief requested in the within captioned matter.

7. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

RANIERO M. TRAVISANO
CLERK OF MIDDLESEX COUNTY

Sworn and subscribed to before me
this 15 day of May, 1986.

W. CARY EDWARDS
Attorney General of New Jersey
Attorney for State Defendants
Richard J. Hughes Justice Complex
CN 112
Trenton, New Jersey 08625

By: DONNA KELLY-BOCCHER
Deputy Attorney General
(609) 292-1500

FOR THE DISTRICT OF NEW JERSEY
UNITED STATES DISTRICT COURT

CERTIFICATION IN OPPOSITION
TO PRELIMINARY INJUNCTION

STEPHEN A. KOCZAK, et al.,

Plaintiffs,.

v.

G. DALLAS DIXON, et al.,

Defendants.

CATHERINE COLAPRICO, being aware of the penalties for perjury, certifies to the Court, pursuant to 28 U.S.C. S1746, that the following statements are true and correct:

1. I am a member of the Middlesex County Board of Elections, which is responsible

for custody and preparation of voting machines.

2. For the June 3, 1986 primary election, we have allocated 531 voting machines, of which 34 are involved in the Fourth Congressional District.

3. We have received ballot inserts for the voting machines and they have already been installed. The machines are ready for inspection under N.J. S.A. 19:48-6, and that is scheduled to occur on may 19, 1986, from 10:00 to 11:00 a.m.

4. Following inspection and sealing, the machines will be shipped to the polling places beginning May 20, 1986. The process takes more than one week.

5. If the machines had to be reset before leaving their present position at our warehouse, the job would cost in excess of $5,000, considering overtime, and take more than four days. If it had to be done in

the field, the estimated cost would increase to about $7500 and the time would be five or six days.

CATHERINE COLAPRICO

DATED:

W. CAREY EDWARDS
Attorney General of New Jersey
Attorney for Stte Defendants
Richard J. Hughes Justice Complex
CN 112
Trenton, New Jersey 08625

By: DONNA KELLY-BOCCHER
Deputy Attorney General
(609) 292-1500

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CERTIFICATION IN OPPOSITION
TO PRELIMINARY INJUNCTION

STEPHEN A. KOCZAK, et al.,

Plaintiffs,

v.

G. DALLAS DIXON, et al.,

Defendants.

JOAN KAPLAN, being aware of the penalties for perjury, certifies to the Court, pursuant to 28 U.S.C. S 1746, that the following statements are true and correct:

1. I am Supervisor for the Ocean County Board of Elections, whose functions include

responsibility for custody and preparation of voting machines.

2. For the June 3, 1986 election there will be 387 voting machines in use. Of these 19 will be utilized within the Fourth Congressional District.

3. Ballot inserts have been received from the Ocean County Clerk and are being installed this week and next.

4. A date for candidate inspection under N.J.S.A. 19:48-6 has not been established. However, the machines are due to be shipped to the polling places beginning May 27, 1986.

5. If it were necessary to reset the 19 machines, they would have to be returned to our warehouse, if removed, and the job would take one and one-half days of labor and cost approximately $1400.

JOAN KAPLAN

DATED:

W. CARY EDWARDS
Attorney General of New Jersey
Attorney for State Defendants
Richard J. Hughes Justice Complex
CN 112
Trenton, New Jersey 08625

By: DONNA KELLY-BOCCHER
Deputy Attorney General
(609) 292-1500

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CERTIFICATION IN OPPOSITION
TO PRELIMINARY INJUNCTION

STEPHEN A. KOCZAK, et al.,

Plaintiffs,

v.

G. DALLAS DIXON, et al.,

Defendants.

ANN D. FLYNN, being aware of the penalties of perjury, certifies to the Court, pursuant to 28 U.S.C. S1746, that the following statements are true and correct:

1. I am Superintendent of Elections for the County of Monmouth, State of New

Jersey. My office included responsibility for custody and preparation of voting machines.

2. For the June 3, 1986 primary election, I have allocated approximatley 395 voting machines. Of these, 110 are involved in the Fourth U.S. Congressional District. These machines have been prepared for use, except for the insertion of ballot strips, which have not yet been received from the Monmouth County Clerk.

3. I have been advised that the strips are at the printer's and are due any day. Once I get them, they will be installed as soon as possible (i.e., within one or two days of receipt).

4. Candidates have been scheduled to inspect the voting machines under N.J.S.A. 19:48-6 on May 28, 1986, at 2:00 p.m. Notices of the opportunity for inspection are due to be mailed out on or about May

19, 1986.

5. The machines will be transported to the polling places as soon as the above procedures have been completed.

6. If the machines had to be reset and they had not yet left the warehouse, it would take approximately five days and cost $2300. If the work had to be done in the field, the time and expense would be substantially greater, but I cannot pin down even estimated figures.

_____

_____

ANN D. FLYNN

DATED: May 16, 1986

UNITED STATES DISTRICT COURT
For the District of New Jersey

AFFIDAVIT BY JANE CLAYTON
MONMOUTH COUNTY CLERK

STEPHEN A. KOCZAK, et al

Plaintiffs

v.

G. DALLAS DIXON, et al

Defendants

STATE OF NEW JERSEY)
ss:
COUNTY OF MONMOUTH)

I, JANE G. CLAYTON, of full age, being duly sworn according to law, upon her oath, declares and says:

1. I am the County Clerk of the County of Monmouth

2. I understand that there has been a challenge filed regarding lay-out and printing of absentee and sample ballots in the upcoming primary election for the 4th

District. I have been informed that this challenge may result in the necessity of having new sample ballots, absentee ballots and machine inserts prepared for the June 3, election.

3. This would be an extreme hardship for the County of Monmouth, and it is highly unlikely that these new ballots could be prepared and ready in a timely fashion.

4. Absentee ballots have already been printed and mailed to all of those whose application has been received to date. Additonally, the sample ballots have already been printed and are scheduled to go to the mail order house by May 19, 1986. Furthermore, the machine inserts are being printed at the present time and deleivery should be made in batches within the next two to three days.

5. If we were required to reprint the sample ballots, absentee ballots and

machine inserts, the cost to the County would be as follows:

$15,565.75 for Sample Ballots

2,250.00 for Machine Inserts

2,147.00 for Absentee Ballots

As I indicated previously, I cannot guarantee that these ballots would be printed so as to be mailed in a timely manner. It would be extremely difficult to reprint these ballots on such short notice.

JANE G. CLAYTON

MICHAEL J. HOGAN
BURLINGTON COUNTY SOLICITOR
49 Rancocas Road
Mount Holly, New Jersey 08060
(609) 261-5001 File #08-45-86

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Robert E. Cowen, U.S.D.J.

File No. 86-1856 (REC)

AFFIDAVIT

STEPHEN A. KOCZAK, et al.

Plaintiffs,

v.

G. DALLAS DIXON, et al.
Defendants.

STATE OF NEW JERSEY)
ss:
COUNTY OF BURLINGTON)

EDWARD A. KELLY, JR., of full age, being duly sworn upon his oath deposes and says:

1. I have served as the Clerk of the County of Burlington for seventeen (17) years and in that capacity am responsible for the printing and mailing of ballots.

2. The Fourth Congressional District in Burlington County has approximately 31,000 registered voters, is comprised of eleven (11) municipalities divided into 60 Districts, each with at least one voting machine.

3. On April 17, 1986 absentee ballots, sample ballots and voting machine strips for the entire County were sent by the Burlington County Clerk's Office to its printer, Tapco.

4. Absentee ballots were received back from the printer on May 12, 1986 and addressed and mailed out by the County Clerk on the same day. Some 200 absentee ballots were sent. Subsequent requests for absentee ballots are mailed as they are received.

5. Sample ballots will be received by the County Clerk from the printer on May 15 and 16 and must be sent to InfoComp, the

County's mailing service, for preparation for mailing no later than May 19, 1986. InfoComp must mail sample ballots by May 27 and they require a minimum of one week to address the ballots.

6. Voting machine strips have already started to be delivered by the printer to the voting machine office and delivery continues on a daily basis.

7. Voting machines are delivered to the sites during week of May 26, 1986 and any chamges in the machine strips after that date would have to be done at each individual machine site resulting in increased costs to the County.

8. The cost to the County of printing absentee ballot and machine strips for entire County is approximately $9,000.00. The individual municipalities pay for the printing of the sample ballots and the municipalities may not have money budgeted

for a reprint of the sample ballots.

9. Cost of mailing sample and absentee ballots for the entire County is approximately $7,500.00.

10. The printer used by the County would be unable to reprint sample or absentee ballots or machine strips prior to the May 27, 1986 mailing deadline due to the vilume of the reprinting and the fact that the printer is also printing ballots for the Cape May County primary.

11. Consideration must also be given to the timing and costs of reprinting and mailing return sheets which must be sumbitted to Township Clerks and Judges of the District Boards the Thursday prior to the election, May 29, 1986.

12. At this time, the best estimate of costs involved in reprinting and remailing sample and absentee ballots and reprinting and replacing machine strips and return

sheets is at least $3,900.00.

Sworn and substribed to
before me this 15th day
of May, 1986.
Edward A. Kelly, Jr.

CAPTION

JOHN SACCA, being aware of the penalties for perjury, certifies to the Court, pursuant to 28 U.S.C. S1746, that the following statements are true and correct:

1. I am the Superintendant of Elections for the County of Burlington, State of New Jersey. My office includes responsibility for custody and preparation of voting machines.

2. My office has not yet received the ballot inserts for voting machines to be used in the primary election scheduled for June 3, 1986. I am informed by the Brulington County Clerk's Office, which is respinsible for preparation of the inserts, that they are presently being printed and will be forwarded to this office upon receipt.

3. The 60 voting machines to be used in municipalities in the Fourth Congressional

District in the primary election have been prepared, except for the insertion of the ballot strips.

4. The candidates' inspection session required by N.J.S.A. 19:48-6 has been scheduled for Friday, May 23, 1986, between 1:30 and 3:30 p.m.

5. Voting machines are to be transported to the various polling places on May 27-30 and June 2, 1986.

6. If the machines had to be reset to accommodate a change in the ballot, there are two possibilities as to timing and costs. If the machines had not been removed from the warehouse where they are presently situtated, the reset would take two to three days and cost about $2,000. If the job had to be done in the field, it would take three days of triple-shift work, and the cost (exclusive of overtime pay) would be $3,000.00 to $4,000.00.

7. The above estimates do not include the prospect of rescheduling the candidates' inspection session and are obviously keyed to the receipt of fresh ballot inserts from the County Clerk.

JOHN SACCA

DATED:

CAPTION

I, G. Dallas Dixon, upon my oath do depose and say:

1. I am the Defendant named herein and as such am the duly elected Chairman of the Mercer County Democratic Committee for the 1985-1986 term.

2. Attached hereto is a true copy of the Constitution and By-Laws of the Mercer County Democratic Committee.

3. Said Constitution and By-Laws do not establish, create, provide for, or address the creation of the Democratic Central

EXHIBIT "A"

Committee in Mercer County.

G. DALLAS DIXON

Sworn and subscribed to
before me this 14th day of
April, 1986.

CAPTION

1. I am the supervising election clerk, for M. Dean Haines, Ocean County Clerk, State of New Jersey, principal office located at Room 102, Ocean County Court House, Toms River, New Jersey, 08754.

2. I make this affidavit in response to plaintiffs application for a temporary restraining Order and Preliminary injunction in the above referenced matter.

3. As supervising Election Clerk, I am primarily responsible for assisting M. Dean haines in the discharge of his statutory duties as Clerk of Ocean County for the primary election to be held on June 3, 1986.

4. I have personal knowledge as to the preparation, printing, delivery of official sample ballots, absentee ballots and voting strips for Jackson Township, Ocean County, State of new Jersey, for the primary

election to be held on June 3, 1986.

5. On or about April 16, 1986, the Ocean County Clerk's Office received the Certification of Jane Burgio, Secretary of State, Department of State, State of New Jersey, including the certified list of candidates for the Office of House of Representatives and their respective slogans.

6. On or about April 18, 1986, the Ocean County Clerk's Office caused to be printed sample ballots, absentee ballots and voting strips for Jackson Township, County of ocean, for the primary election to be held on June 3, 1986. The printer employed by the Ocean County Clerk's Office is Ocean County Review, 715 Boulevard, Seaside Heights, New Jersey. Said election ballots and voting strips include the candidate's respective slogans as described in the Certification of Jane Burgio. To date,

there are about 11,502 registered voters in Jackson Township which necessitates the printing of approximately 12,000 to 13,000 election ballots.

7. On or about May 2, 1986, Ocean County review completed the printing of the Sample ballots, Official Ballots, Absentee Ballots and Voting Strips described above.

8. On or about May 6, 1986, the Ocean County Clerk's Office delivered for mailing Sample ballots for 255 districts of Ocean County, including Jackson Township to Mailing Services, Inc., 1319 North Broad Street, Hillside, New Jersey, 07205. Said sample ballots must be mailed no later than May 28, 1986, at noon.

9. On or about May 8, 1986, the Ocean County Clerk's Office began mailing absentee ballots for those registered voters requesting the same and are current with the requests for absentee ballot by

registered voters of Ocean County.

10. On or about May 8, 1986, voting strips were delivered to the Ocean County Election Board. It is my understanding that said strips have been installed in the voting machines stored at the Ocean County Board of Elections.

11. In the event this court were to direct the reprinting of the sample ballots, Official ballots, Election ballots and voting strips, a considerable number of uncertainties would exist.

12. First, only nine days remain within which to meet the May 28th mailing deadline. It is unknown whether this nine day reprinting goal could be realized. It is unknown whether the Ocean County Review, the election printer employed by Ocean County, could reprint approximately 12,000 to 13,000 new sample ballots in eight days. Unexpected events, such as equipment

failures, may cause even further delay. Additionally, the cost of reprinting all ballots and voting strips would be unknown at this time since it would depend in part on the number of overtime hours required for such printing.

13. Additionally, it si unknown whether mailing activities could be carried on to reach voters within time to provide voting information before the election. it is unknown whether Mailing Services, Inc., the election mailing service employed by Ocean County, could complete the mailing by the mailing deadline. Again, the additional cost would depend upon the number of overtime hours required for such mailing, an unknown factor at this time.

14. Furthermore, the voting machines would need to be opened, existing voting strips removed, the reprinted voting strips inserted, certified and sealed. Again,

whether this goal could be realized before the election is unknown at this time.

15. In the event that the relief requested by plaintiffs in this matter were granted against the County of Ocean, the reprinting, mailing and delivery of election ballots would cost the taxpayers of Ocean County large sums of money. Such relief would create chaos and havoc in order to meet deadlines for the June 3, 1986, election. It is doubtful that such reprinting and mailing of election ballots could be completed in time for the primary election to be held on June 3, 1986. Moreover, such a reprinting would create confusion among the registered voters in the Township of Jackson who have already received an Official Sample Ballot and would receive yet another Election Ballot.

TED HEITMAN

SWORN and SUBSCRIBED to

before me this 19th day

of May, 1986.

CAPTION

Dear Judge Cowen:

I am County Counsel for Middlesex County and am responding for Raniero Travisano, County Clerk in the above matter. The Middlesex County Clerk was served with the pleadins in the above matter on the morning of May 15, 1986. We do not intend to appear on the return date of the Order to Show Cause in this matter.

I have submitted an Affidavit of our County Clerk of Deputy Attorney General David Dembe detailing the problems which would result if the Plaintiffs' relief was granted. The County of Middlesex will rely upon this Affidavit as submitted by the Attorney General's Office.

If anything further is required, please advise.

Very truly yours,

JOHN J. HOAGLAND

cc: Mitchell Neider, Esq.
Leonard Fishman, Esq.
Mark Setaro, Esq.
Walter Bliss, Esq.
Donna J. Kelly-Boccher, Esq.
Michael J. Hogan, Esq.
Richard T. O'Connor, Esq.
Franklin Berry, Esq.
David Dembe, Deputy Attorney General
Raniero Travisano, Middlesex County Clerk

Honorable Robert E. Cowan
United States District Court
District of New Jersey
United States Court House
Trenton, NJ 08605

Re: Koczak, et al. v. G. Dallas Dixon, et al.
Civil Action No. 86-1856 (REC)

Dear Judge Cowan:

Kindly be advised that this office represents M. Dean Haines, Clerk of Ocean County.

Mr. Haines was served with numerous papers in this matter on Thursday, May 15, 1986.

Kindly accept this letter memorandum in lieu of a more formal brief on behalf of M. Dean Haines in opposition of Plaintiffs' motion to amend the Complaint to join M. Dean Haines, Clerk of Ocean County, in this matter.

Plaintiffs seek to restrain and enjoin the Secretary of State from placing or printing on the ballot for the June 3, 1986 primary election the slogan, "Regular Democratic

Organization," selected by Jeff Laurenti and certified by Jane Burgio, Secretary of State, pursuant to N.J.S.A. 19:23-21.

It is important to note that upon review of the Complaint, Plaintiffs' allegations do not appear to be directed at Dean Haines, Ocean County Clerk.

Rather, it appears that M. Dean Haines' only connection with this matter is that the County Clerk is statutorily authorized to cause the printing of official Primary Sample Ballots, Absentee Ballots and voting strips. N.J.S.A. 19:49-2. The County Clerk has not discretion with regard to the selection, approval or certification of any slogan or statement to be used in the primary election in connection with any candidate or group of candidates for office. N.J.S.A 19:23-25.1. The Secretary of State certifies the names of the persons endorsed in the Petition filed in his

office to the Clerks of the counties prior to the holding of a primary election, and thereby prescribes the slogan to be printed in connection with any candidate or groups of candidates for office in the primary Election. N.J.S.A. 19:23-21.

By Certification dated April 15, 1986, Jane Burgio, Secretary of State, certified the official list of candidates for the office of House of Representatives for the June 3, 1986 primary election, along with the designated slogan for each candidate. (See attached copy of Certification of Jane Burgio dated April 15, 1986)

In Ocean County, Jackson Township is the sole township in Ocean County included in the Fourth New Jersey Congressional District. On or about April 16, 1986, the Office of the County clerk received said Certification of Jan Burgio. On or about April 18, 1986, M. Dean Haines, County

Clerk for the County of Ocean, caused to be printed a sufficient number of official election Sample Ballots, Absentee Ballots and voting strips for the primary election of June 3, 1986. (See Affidavit of Ted Heitman, Supervising election clerk) The County Clerk in drawing the specifications for the printing of the official primary ballots included the names and slogans as described in the Certification of Jane Burgio, Secretary of State. To date, there are approximately 11,500 registered voters in Jackson Township, County of Ocean, which necessitates the printing of approximately 12,000 to 13,000 sample ballots.

As outlined in the Affidavit of Ted Heitman, on or about May 2, 1986, the printing of the official primary ballot for the June 3, 1986 election was completed. On or about May 6, 1986, the Ocean County Clerk delivered the sample ballot for the

255 districts of Ocean County, including Jackson Township, to Mailing Service, Inc., 1319 North Broad Street, Hillside, New Jersey, 07205, to be mailed to registered voters in the County of Ocean.

On or about May 8, 1986, the Ocean County Clerk's Office began mailing absentee ballots to registered voters of the County of Ocean requesting the same and the Ocean County Clerk's Office is current to date with such mailings.

On or about May 8, 1986, the Ocean County Clerk's Office delivered said voting strips for Jackson Township's primary election, June 3, 1986, to the Ocean County Board of Elections. Said voting strips have been installed in all voting machines located at the Ocean County Air Park warehouse. (See Affidavit of Ted Heitman) These voting machines have been checked, closed and sealed by the Ocean County Board of

Elections. (See Affidavit of Ted Heitman)

In the event Plaintiffs' request is granted against Ocean County, it is unlikely that the Ocean County Clerk's Office could substantially completed the statutory responsibilities with respect to the reprinting, mailing and delivery of official election ballots for Jackson Township. Only nine days remain within which to meet the May 28 mailing deadline. The election will be held in fifteen days. The reprinting of the same may not be ready by the mailing date and may not reach registered voters in jackson Township within time to provide voting information before the elections. It is unknown at this time whether Ocean County Review, the election printer employed by Ocean County, could complete the reprinting within the nine day deadline. Unexpected events, such as equipment failures, may cause further

delay. Additionally, it is unknown whether mailing activities could be achieved prior to the nine day deadline. the cost of reprinting and mailing all ballots for Jackson Township would depend in part upon the amount of overtime to print between 12,000 and 13,000 ballots, an unknown factor at this time and substantial expense to the taxpayers of Ocean County. Furthermore, it is unknown whether existing voting strips could be removed from the voting machines and new ones inserted, inspected and sealed in the voting machines well before the general election is held.

It is respectfully submitted that should Plaintiffs' requests be granted against Ocean County, such reprinting would create chaos.

Respectfully,

JOHN C. SAHRADNIK

BEST AVA

SAMPLE BALLOT, OCEAN COUNTY,
SHOWING SLOGANS

INSTRUCTIONS TO VOTERS

Move the RED handle of the curtain lever to the RIGHT as far as it will go and leave it there. (This closes the curtain and unlocks the machine for voting.)

Turn DOWN a pointer over the name of each candidate of your choice

Turn this pointer	to this position	and leave it DOWN
	NAME OF CANDIDATE	

After turning DOWN all the pointers you desire, LEAVE THEM DOWN and move the RED handle of the curtain lever to the LEFT as far as it will go and leave it there. (This records your vote, returns all pointers to their unvoted position, and opens the curtain.)

(Write-in voting machines) To vote for a person whose name DOES NOT appear on the ballot, push up the slide at the top of the machine (Personal Choice row) with the corresponding column number and WRITE or paste in the name of person for whom you desire to vote. NOTICE: When a slide is pushed up, the pointer in the corresponding column is LOCKED, unless in a group where you may vote for more than ONE. Once a voter has pushed up a slide, he CAN NOT change his mind on regular voting pointers.

Detailed Explanation: This is a PRIMARY ELECTION. Therefore you are confined legally to a choice of candidates for nomination within your own political party. This machine is so adjusted as to comply with the law, and will not permit you to vote in the primary of more than ONE party. Starting at the left end of the face of the machine, turn down the number of pointers as indicated in the TITLE OF OFFICE column. Do not be afraid of spoiling your ballot. The machine will not permit you to vote for more than the legal number of candidates.

Remember, no votes are tabulated until the RED handle is moved back to the left. Therefore if you desire to change your vote from one candidate to another, you may do so by merely turning up the pointer in question, and turning DOWN the pointer of your choice. Your final choice of pointers MUST be left in the DOWN position or the votes will NOT be recorded.

VOTERS ATTENTION

[illegible] IMPORTANT!

Official Primary Election Sample Ballot

[illegible]

BOARD FOR TEMPORARY CHANGE OF ADDRESS

COMMISSIONER OF REGISTRATION

COUNTY OF OCEAN

On [illegible]

[illegible]

CAST BY PRE SCRI

JUNE 3, 1986

Polls Open Between 7:00 A.M. and 8:00 P.M.

APP. 177

Jackson Twp. 8
580-00

YOUR POLLING PLACE

Jackson Twp. District No. 8
The Polling Place for this Election District is
Com. Jer. ITALIAN AMERICAN CLUB
Marshall St.

David T. Miller Sr.
Municipal Clerk

M. Dean Haines
M. DEAN HAINES
Clerk of Ocean County

Sample Voting Machine Ballot
Primary Election—June 3, 1986
COUNTY OF OCEAN
POLLS OPEN BETWEEN 7:00 A.M. and 8:00 P.M.

Personal Choice

OFFICE TITLE		MEMBER OF THE HOUSE OF Representatives	MEMBER OF THE BOARD OF CHOSEN FREEHOLDERS	TOWNSHIP COMMITTEE	COUNTY COMMITTEE	COUNTY COMMITTEE			
		FULL TERM Vote for One	FULL TERM Vote for Two	FULL TERM Vote for One	Vote for One	Vote for One			
REPUBLICAN Row A	A	SMITH	BUCKWALD	MURRAY	CARLSON	CARLSON	HYNES		
Row B	B								
Row C	C								
OFFICE TITLE		MEMBER OF THE HOUSE OF Representatives	MEMBER OF THE BOARD OF CHOSEN FREEHOLDERS	TOWNSHIP COMMITTEE	COUNTY COMMITTEE	COUNTY COMMITTEE			
		FULL TERM Vote for One	FULL TERM Vote for Two	FULL TERM Vote for One	Vote for One	Vote for One			
DEMOCRAT Row E	E	LARGERTY	LEAF	BEYER	CONWAY	TREWBLAY	BATES		
Row F	F	LACTAS							
Row G	G								

LABLE COPY

LETTER OF DEFENDANT LAURENTI
TO OCEAN COUNTY CLERK

April 5, 1986

M. Dean Haines

Ocean County Clerk, Room 102

CN 2191

Toms River, NJ 08754

Dear Mr. Haines:

I am a candidate for the Democratic nomination for Congress in the 4th Congressional District. This letter is to notify you that I would like to run on the same line as the Ocean County Democratic Party, using the slogan Official Regular Democratic Organization, with the approval of Ocean County Democratic Chairman Al Santoro. If you have any questions, please contact Mr. Santoro, or myself (at 609-392-0706).

Sincerely,

cc: Al Santoro

Ted Heitman, election clerk

State of New Jersey
Department of State

Trenton, New Jersey

I, JANE BURGIO, Secretary of State of the State of New Jersey, DO HEREBY CERTIFY that the persons named on the attached sheet(s) filed petitions in this Department of the office of Member of the House of Representatives, State of New Jersey, in pursuance with the provisions of an act entitled "An Act ot Regulate Elections," Title 19, Revised Statutes, and the amendments and supplements thereto, for whom the voters of the 3rd, 4th, and 13th Congressional District(s) may cast ballots at the Primary Election to be held on June 3, 1986.

IN TESTIMONY WHEREOF, I have here-

unto set my hand and affixed my

Official Seal at Trenton, this

Fifteenth of April, A.D. 1986.

CAPTION

THE COURT: All right. Here we are again. Have you all made your appearances for the record?

MR. NEIDER: Mitchell Neider of the firm Brener, Wallack & Hill, appearing as local counsel for the plaintiff, your Honor.

MR. ELGIN: Laurence A. Elgin of Washington, D.C., appearing pro hoc vice for the plaintiffs.

MS. KELLY-BOCCHER: Donna Kelly-Boccher for defendants Governor Kean, Attorney General Edwards and Secretary of State James Burgio.

MR. FISHMAN: Leonard Fishman of Cohen, Shapiro, Polisher, Shiekman and Cohen for the defendants Mercer County Democratic Committee and G. Dallas Dixon.

MR. KOENIG: Paul T. Koenig, Jr., Mercer County counsel on behalf of County Clerk, Albert E. Dryer and at the request of

Michael Hogan, Burlington County Solicitor, I am here representing the Burlington County Clerk, your Honor.

MR. SETARO: Mark Setaro of the firm of G. Dallas Dixon on behalf of defendant Jeff Laurenti.

THE COURT: This is plaintiff's application, as I understand. Is that correct?

MR. ELGIN: Yes, your Honor.

THE COURT: You may proceed.

MR. ELGIN: Knowing how conscientious your Honor is, I will not rehash what have filed in the Supreme Court in the form of a single justice application. I know it has also been filed here. I would point out, I think perhaps with the additional authorities we have cited, the best summary is the footnote from the 1944 case of Snowden Vs. Hughes, 321 U.S. 1, that is footnote No. 3 at page 12. That case

ironically, of course, involved elections of State officials and denied that such elections were covered at that time by the 14th and 1st Amendment, a position which was subsequently eroded during the 1960's in the voting rights cases in the South.

But nonetheless, in differentiating cases involving State officials, and elections to state office, the Court did summarize the situation for federal candidates in this note, and stated that such rights of candidates for federal office rested on the ground that the rights of suffrage in the federal elections are secured by the articles in the main body of the Constitution, that we argue here today, Article I, Section 2, and Article I, Section 4.

I would like to also emphasize a point that was interrupted by the questioning in our last hearing before your Honor, and

that is that the fundamental nature of this right, in that the framers, according to the testimony from James Madison that we cited, left a power in the Congress to override the power to regulate the times, places and manners of elections for federal office, as a safeguard against the dissolution of the Union.

And the point of this is that if the framers were reluctant to place this authority in the State legislators without this override and restraint, they of course obviously had no intention of placing it in the hands of political parties, their feelings about political parties are too well known to need reciting here, although they participated in them, they wanted them controlled.

Now, I see another point is made in the opposing brief of Mr. Fishman and I compliment Mr. Fishman on so quickly coming

up with a brief, and I want to address myself briefly to --

THE COURT: This is a brief filed in -- I have received no brief.

MR. NEIDER: I am sorry, your Honor. I believe there may be a misunderstanding. I was handed a copy of the brief that I believe Mr. Fishman filed in the Third Circuit, it was not filed --

MR. ELGIN: Oh, I am sorry. My apologies.

MR. FISHMAN: Your Honor, that was just filed less than an hour ago in response to the moving papers of the appellants.

THE COURT: That was filed in the Third Circuit, not in the district court.

MR. FISHMAN: No, it was not.

THE COURT: So it is not before me.

MR. ELGIN: My misunderstanding. I was handed the brief. I assumed it was before your Honor. Anyway, Mr. Fishman raises the point in that brief that your Honor raised

at the last hearing, and I want to address that because I think that is something that your Honor is going to consider here, and that is the question of whether we have a body operating here under color and authority of State law, whether this committee, a central committee, which has no statutory authorization, is itself, leaving aside the question of what the clerks and Secretary of State do in placing it on the ballot the slogan and so forth. And I believe the definitive case on that is Terry vs. Adams, we cited in 1953, 345 U.S. --

THE COURT: I am acquainted with that case.

MR. ELGIN: That is the Jaybird party case.

THE COURT: I know that.

MR. ELGIN: And I just want to briefly recite some points from that case. The

Court stated at page 464 in the Terry case, that when a State structures its electoral apparatus in a form which evolves upon a political organization the uncontested choice of public officials, that organization itself, in whatever disguise, takes on those attributes of government which draw the Constitutional safeguards into play.

They cite Smith vs. Allwright, U.S. vs Classic and so forth. Then in that case, there is, in all three of the opinions that made up the majority, the one by Frankfurter and the one by four of the justices, and the opening one by Mr. Justice Black, there are statements about when you have this question of: is a statutory purpose being evaded: what is the substance that you look at? Of course, equity looks at substance rather than form.

I want to just briefly summarize what we

argue is the holding there. What matters is the purpose of the unsanctioned or authorized body. Whether it is operated to evade the statutory bar, and in that case, the phrase is used, "as part and parcel of the party organization," is it a means by which "certain selected members," to quote from the New Jersey case that we have cited here, "of the party" evade the statutory bar in question, here, the bar on preprimary endorsements.

What matters, Mr. Frankfurter, Mr. Justice Frankfurter said, is whether the device complained of is a device to defeat the statutory regulation. He raised the question: does the device used favor one class over another? Snowden v. Hughes makes the same point; favoring of one class over the other is invidious in political matters.

We of course argue that the practice

complained of here favors the class of insiders, those who are part of the inner committees and affiliated with the chairman, over the ordinary voters of the party. And indeed, it seems to be narrower than the attendees to the convention held by the central committee in question here because Mrs. Dubrovsky filed a complaint in the State Court as a member of that committee, but she complains of being left out of the process.

Now, another phrase used in this, in the Terry case, was whether the structure set up outside the statutory framework closely parallels that within the statutory framework so as to accomplish the same purpose. And I think that that is a situation here.

Now, I want to point, for example, to the responses we have gotten from the Ocean County Clerk's office, and the attorney for

that county. There is a letter in there by which the defendant Laurenti asked that he be placed on the ballot in Ocean County with the slogan complained of. I note the letter is on the fifth, three days after the endorsing convention of the Central Committee, on the second of May, and that at that time he had not even filed to be a candidate with the State. So clearly, the informal apparatus here is, as was the case in Terry, is superseding and subverting the official way of doing things.

Now, another thing I not in that letter was that he states that he has approval of the chairman of the party in that county, Ocean County. He doesn't say he has the approval of the candidates with whom he is to be bracketed. He says he has the chairman's approval. And I think that, when we get into discovery in this case, it will show that there has been a widespread

subversion of the statutory scheme.

What we see in the documents of the Ocean County is true of all the counties, and by a gradual process the statutory purpose has been circumvented. And that brings me to my final point on that, on this board point of the question of the Central Committee versus the official committee, in that, as stated in the Terry case at page 476, the individual parts of the scheme to circumvent the statute, if considered alone, may some of them be perfectly legitimate, but what matters is the overall plan that is being carried out, and the substance of that plan.

Now, having said that, I return in closing to the, to what I understood to be your Honor's basis for dismissing the case, the question of federal jurisdiction or lack there of, and I briefly want to re-emphasize --

THE COURT: Your application before the

Court is not an application to -- is an application for a stay, is it not?

MR. ELGIN: That's right, for a stay of, and I understood your Honor's dismissal to be based on a holding of lack of jurisdiction, regardless of the merits of our case.

THE COURT: That's correct. As a matter of fact, I endorsed on the record that I made absolutely no finding as to the merits or lack thereof of your case, but that the case belongs, in any event, in the State Court. But I further endorsed on the record that even if I were a State Court judge, I would have grave doubts whether I would entertain an application which was on, I called it the eleventh hour. At this point it is the eleventh hour and the 59th minute of the day.

MR. ELGIN: Does your Honor wish me to answer that question?

THE COURT: By reason of laches because I read your moving papers and it was my firm feeling, if not my finding, that this is something which you knew about many, many moons ago, and that you slept on your rights, if you have any rights. So I want the record to be clear that I, although I felt I had not jurisdiction, I felt also that even if this Court did have jurisdiction, or if I were a State Court judge, that the laches on it are a law school textbook example.

MR. ELGIN: May I briefly address that point, your Honor?

THE COURT: Please do. Make the record clear.

MR. ELGIN: First of all, I would like to clarify, I was somewhat puzzled when I heard your Honor say last time in response to Mr. Fishman's argument that we had alleged that the client, that our clients,

the plaintiffs had known of this practice for many years. I looked at the complaint and the allegation I find is one that the practice was going on. Perhaps I am wrong, but I didn't recall, in this, I can't find any allegation that our clients knew of the practice during that time.

THE COURT: You certainly allege this is something of longstanding. I don't know whether I got it from the complaint, the affidavit. I might have even gotten from the brief. But it was, I read it. I didn't, I am not hallucinating. I read it in your moving papers, because I read it before I received anything in response from the defendants.

MR. ELGIN: Your Honor --

THE COURT: And it piqued my interest, because I know I think maybe the day before I received at my own house, the announcements of the primary or, it was a

couple of days later, whatever it was, the mailing, and I said my God, how am I going to get involved in something like this when, you know, the horse race is already under way?

MR. ELGIN: I understand, your Honor. I just want to emphasize that I do not believe that we have acknowledged a knowledge on the part of the plaintiff as opposed to be practices having existed.

THE COURT: Well, let's put it this way. Your client is a grown man of wide human knowledge and certain experience in political life. You have to acknowledge that.

MR. ELGIN: Oh, we do, you Honor.

THE COURT: All right. I want to tell you, it would be hard for me to understand that anyone who has that scope and depth in the political arena could not be aware of what he is claiming to be this obvious

violation.

MR. ELGIN: I would like to respond to that in this way. I would like again to refer to the Terry case, and compare this situation to that in which the Supreme Court says in that case that the practice was carried on largely by word of mouth and by the communication within the community. Now, our allegation is that our clients were not part of this, the inner group that carried on this process.

THE COURT: Oh, I understand that, that your client was an outsider and that inner group was steering it, but whether he is an outsider or an insider, everyone knew how the system worked, whether it was working legally or illegally. Everyone knew how this system was working.

MR. ELGIN: I understand, your Honor.

THE COURT: Why don't you relax?

MR. ELGIN: I would like to make two

points in response to that. One is that the endorsement practice on the ballots in only part of what we allege is wrong here, is going on here that violates the Constitution and the statutory scheme, and so we, even if we were not to obtain that relief, we would still want to press for declaratory judgement, the correction of the practices and so forth.

This is a case, as the Supreme Court says, "capable of repetition yet evading review." Our clients made it very clear that they want to pursue the judgement, regardless of whether that portion of the relief is --

THE COURT: I understand, and in response to your desire to have ad interim or injunctive relief, it was my feeling that I had no jurisdiction and I said that, you know, the State Court, I think, is your proper forum.

MR. ELGIN: Right. And the second point I

would like to make in response to that is that, it that, it is of the essence of our complaint that the deception that was involved here was the carrying out of the forbidden -- the purpose forbidden by the statute through the committee which was very little known, the central committee, and whose existence and overlapping functions were not bruited abroad, were not advertised to the voting community.

And that, therefore, the ordinary voter was confused by this scheme and our clients were of that class, and they did not fully understand what was going on, and we do not think that in the exercise of reasonable diligence, short of the kind of proceeding that they are now involved in, they could have found that out. Had it not been for the filing of the State Court proceeding by Mrs. Dubrovsky they would not have begun to comprehend this full plan or proceeding, a

proceeding, in our allegation, to circumvent the statute. That is all I have to say at this time.

THE COURT: For purpose of this record, your immediate application to this Court is for what, what kind of order are you seeking?

MR. ELGIN: We, of course, we asked the higher courts for a stay. As is customary, they asked we first seek a rehearing here to see if there would not be a stay at this time. At this time, we would like to really add that we would like, and I realize in view of the way your Honor is going, this probably is not likely to be granted at this level, but we want to put on the record we would like to request, if necessary, that the election itself be stayed in order to correct these situations.

THE COURT: Well, okay, that is something

that quite frankly just came out of the blue. There is nothing filed with me. I really don't like surprises. I wish you would have at least given me some telephone notice that you were going to seek that. Have you advised you adversaries you were going to seek a stay of the election orally?

MS. KELLY-BOCCHER: No, we got no such notice of that.

THE COURT: I will not even entertain that request then, I am sorry, I will not even entertain it. I quite frankly, I like to study things, and whether I do it right or wrong, I like to make my decision after I study it.

MR. ELGIN: Surely. Surely.

THE COURT: And I can't even, quite frankly, entertain that request. It is not that I would not entertain it, out I feel as if it is only proper that you have given your adversaries and the Court some notice.

MR. ELGIN: Surely, your Honor.

THE COURT: For purposes of the record today, you are seeking from me what?

MR. ELGIN: We are seeking from you a reconsideration of your Honor's decision dismissing the cause upon the motion of Mr. Fishman's clients for the, on the threshold

question of lack of federal jurisdiction.

THE COURT: And if I do not -- in other words, you are seeking rearguement on my original decision.

MR. ELGIN: That's correct.

THE COURT: All right. And if I -- you want me to reverse myself based upon the filing which I have received, which was captioned "Notice of Motion on Short Notice for a Stay of the Judgment of the District Court"?

MR. ELGIN: Yes, that's correct.

THE COURT: All right. And this incorporated what appears to me to be an application which was made to Justice Brennan?

MR. ELGIN: That's correct. The basic brief is contained in that document.

THE COURT: The were not originally cited. I have read them and I have had an opportunity to go over them. So, basically

what you are seeking is a reconsideration by myself of my earlier decision.

MR. ELGIN: That's correct.

THE COURT: All right. I understand your position. Would you like to respond?

MS. KELLY-BOCCHER: Just very briefly, your Honor. Basically, the State would rely on its previous submissions. I would comment what has been submitted to Justice Brennan adds nothing to justify any type of federal jurisdiction in this case. There is absolutely none. As for seeking a stay of the election, or a reprinting of the ballots --

THE COURT: You don't have to address that because I said I would not entertain it.

MS. KELLY-BOCCHER: But they are asking for the reprinting of the ballots. That is quite clear, from my reading of their application for a stay. But as the Court knows from its, from the certifications and

affidavits that were submitted previously, that the reasons are even more compelling now to simply disregard that request.

At this point, four days before the primary election to be held statewide, it is an absolutely irresponsible request and contrary to the assertions that have been made by the plaintiffs. Their interests is not in protecting the voters of the 4th District in that they have no hesitation to ask this Court to jeopardize the very right of those voters to cast their ballots on June 3rd.

I would also like to point out that contrary to Mr. Elgin's comments, I think the Court is absolutely correct in its reading of the papers that were filed by the plaintiffs, that the plaintiffs have acknowledged knowledge of the previous conduct, alleged conduct, of the Mercer County Democratic Committee.

THE COURT: Where was that? I read it somewhere.

MS. KELLY-BOCCHER: I read it on my interpretation of the complaint is that on page 5, paragraph 15, they allege upon information and belief that the Mercer County Democratic Central Committee was created some years ago for the avowed purpose of endorsing and screening party candidates. I am paraphrasing. This was a verified complaint that was submitted and along with
it was an affidavit signed by Mr. Koczak in which paragraph 2 he states, "I have personal knowledge of the facts set forth herein, and if called as a witness, I could testify competently thereto."

I don't think that question of laches needs to be addressed beyond that. But basically, I think that the Court's initial decision to dismiss the complaint for lack

of jurisdiction was eminently reasonable, and beyond that, it was the only course of action the Court could take in this matter. I think the Court should summarily dismiss any request for reconsideration, and certainly not grant any stay. Thank you, your Honor.

MR. FISHMAN: Your Honor, I would just join in what Miss Kelly-Boccher has said with regard to the complaint. We too understand that there was knowledge some time ago, even if we accept that the knowledge was as recent as April 3rd, that is no excuse for waiting to mid-May to come to this Court.

And at the very end of May, where we are right now, to ask for this emergent relief. I think it is clear from the complaint that knowledge of this practice was fairly widespread and should have reached the attention of Mr. Koczak.

On the question of subject matter jurisdiction, the cases that have been cited in the original brief in this, in this more recent brief, go to the issues that I discussed at the last hearing. Namely, deprivation of some fundamental federal right. For example, denying blacks the right to vote, redistricting of black sections of town out of a municipality so as to remove them from municipal elections where clearly the Court has recognized that a federal statute or provision of the federal Constitution has been violated.

I think we have here a very different case, and for the reasons that your Honor decided last time, there was no subject matter jurisdiction, I think the same conclusion ought to be reached again.

I would just add, because there has been so much comment by Mr. Elgin concerning suspect classes, insiders, outsiders, et

cetera. There is nothing in the Constitution that says that Democrats or Republicans or Independents should not be active in politics. There will always be in politics some insiders and there will always be some outsiders. That is not a suspect classification. What usually divides the two is that one group is more actively involved in elections, and that switches from one election to another.

It is well known, for example, in a presidential year many people who might not be active in politics otherwise begin to work on presidential campaigns because they are stimulated to do so by the gravity of the issues and so on. No federal statute, and certainly not the Constitution, certainly not the framers who were themselves political insiders who met to frame our Constitution, would have opposed the practice of people meeting and talking

to discuss political issues.

What the New Jersey statute says is that certain political committees that it creates, and only those political committees, are prohibited from endorsing candidates. Those political committees are municipal, county and State political committees. The plaintiffs would have this Court decide that any political group that comes together for the purpose of discussing politics may not endorse candidates. That is not the case.

If a political group is not the one that the statute prohibits from endorsing candidates, it may do so, and of course those political groups have themselves First Amendment rights to meet and discuss issues. In fact, that is an important part of the political fabric of our society.

So I think that that -- we have plaintiffs here characterizing any political activity

to review and endorse candidates, for example, the League of Women Voters may endorse candidates in a primary or general election. Anybody that is not prohibited from doing so by the statute may endorse candidates, and as the Court said in Gillen vs. Shiel, the Court should be very careful before stopping committees that are not explicitly prohibited from endorsing candidates from doing so in furtherance of their First Amendment rights.

That is all I will say on the matter of subject matter jurisdiction.

I think on the question of laches, it is clear now more than ever that the election being four days away, this would be disruptive, particularly in light of the fact that there is no probability of success on the merits. I am going back now to the original application for a preliminary injunction.

A third point, in all of the conversation or argument that I have heard from plaintiffs, I have not heard the plaintiffs make the case that there is a connection between the alleged violation which is an endorsement by a prohibited committee that is prohibited from endorsing and the relief they are asking for.

Candidate Laurenti took the slogan, "Regular Democratic Organization." He could have taken "Regular Organization Democrat," he could have taken any slogan he desired so long as it was not owned by someone else and so long as it was six words or less. He could not have taken "Traditional Democratic Organization." I think that is the one that candidate Koczak has selected.

But candidate Laurenti did not need anybody's permission to take that slogan. That was a choice he made himself and that

is clearly given to him under out statute. That is not related to the question whether there was an improper endorsement, and I think plaintiffs have never made out that case to show a connection between the alleged violation, even if it had occurred, and the relief that they are asking for. They have no authority to deprive candidate Laurenti of a slogan he chose to describe himself.

I am not sure what the plaintiffs want candidate Laurenti to put in its place since he is clearly entitled to use a slogan under election law.

Finally, one point I would make regarding the papers filed by plaintiffs. With due respect to counsel for the plaintiffs, I think Mr. Elgin should be reminded that someone admitted pro hac vice in New Jersey is subject to our rules of professional conduct, and it is my humble opinion that his characterization of Judge Levy's decision in a related matter attributing the decision to his allegiance or ties to the regular Democratic party organization really are not a direct violation of rules of conduct, and point two, certainly does no credit to his client's cause, nor to Judge Levy or to the Bench.

Thank you, your Honor.

MR. KOENIG: Judge, I may not be as

sophisticated in election law as some of the other attorneys who are here arguing today, but I do know a little bit about applying for stays, and my understanding was that you have to do two things when you apply for a stay and one is to show a substantial likelihood of success on the appeal above. And I didn't hear counsel really indicate today that he had any enhanced likelihood of success on the appeal that he has filed with respect to his claim of irreparable injury, I am not even going to talk about that.

His client is a candidate for public office. He is standing for election next week and he is on the ballot and the voters are going to speak to his candidacy at that time. But I have not heard him raise one issue today, or add one bit of information, or evidence, whatever you would consider, that would indicate that he has any

likelihood of success on his claim above, and he is requesting you today to stay your judgement, and not to entertain this matter, that there is no federal jurisdiction.

It is the --

THE COURT: I think he is asking me to reverse my earlier decision.

MR. KOENIG: I think he is, too, Judge, but he has captioned it a motion for a stay, in essence, you would have to reverse, a trial judge who is granting a stay of his own decision would have to reverse himself or say I am not certain about by decision. And I have not heard him say anything here today in his argument or introduce anything through the papers that indicate that he has, that he is confident that he has that substantial likelihood of success.

I am here for the County. I am the county

attorney. Miss Kelly-Boccher is here as a Deputy Attorney General. I know she has expanded a lot of legal resources at the State level on this case. We are funded, our offices are funded by the taxpayers of Mercer County and the State of New Jersey, and it is an expensive proposition to continually return in a case like this. And there is a cost that has to be borne, and has to be addressed with the consumption of the courtroom time, the judge's time and so forth, and there is no likelihood of success in this matter. What I believe here is that this matter is back in court again because the primary is just over the horizon and there is a possibility that it enhances the candidacy of the candidate to be in court again, whether he wins or loses. And I have other things to be attending to this afternoon that are of great importance.

THE COURT: How does it enhance his candidacy?

MR. KONIG: He gets a newspaper article.

THE COURT: I am not aware that this was reported in the press.

MR. KOENIG: I did read it in the newspapers, your Honor. I am sorry. I probable reread some, it wasn't in the New York Times or the Newark Star Ledger. It was probably in the Lawrence Ledger or the Trentonian or something of that nature.

THE COURT: I read those papers, too.

MR. KOENIG: Well, at any rate, I did read an article about it, your Honor. He has had his day in court before you and I think you dealt with him fairly and I really, I wish that the matter had been laid to rest at that time, on behalf of myself and Burlington County Solicitor Hogan.

MR. SETARO: Your Honor, I just would like to make one comment on the papers that were

submitted by plaintiff, that is the papers submitted to Justice Brennan. Again, going back to these comments about Judge Levy's decision. I was the attorney for the defendant at that time, and was a part of that decision, and he makes the allegation that Judge Levy felt that because it was only a 55 percent overlap in the two committees, that that was not enough, that it would take almost 100 percent overlap.

My recollection of Judge Levy's decision was that if it was possibly a 90 or 95 percent overlap, that may, that may change his mind, but he was looking for more than just an overlap. He wanted some more evidence, and I don't see any more evidence handed in this case than was submitted before Judge Levy at that time and Judge Levy at that time felt that there was little merit to their case.

And, therefore, I feel that your Honor

should feel the same way, that there also is no merit in this case due to the fact there is no evidence before you that there is such an alter ego relationship between the two committees.

THE COURT: I really didn't read the merits of it in the first place. I just want the record to be very clear and I appreciate your argument. I am not agreeing or disagreeing with what you said. I just never considered it in that way, quite frankly. I never considered the merits.

All right. Gentlemen and lady, having had the benefit of the recent filing captioned "Notice of Motion on Short Notice for a Stay of the Justice of the District Court," and having had the benefit of argument this afternoon, I am of the opinion that my original decision should not be vacated, altered or amended in any way whatsoever.

As a matter of fact, having had additional time to study it, I was rather rushed last time, I am more confident now than I even was on the first go 'round that my original decision was legally proper, that is to say, that this Court has no jurisdiction to hear and determine this matter.

I think I made an oral decision from the bench at the original time. I did, didn't I?

MS. KELLY-BOCCHER: Yes, your Honor.

THE COURT: Is there any reason why I just should not say for purposes of this application, and for purposes of review, that I repeat the decision which I orally read into the record at that time, and for the same reasons, decline to reverse myself or to in any way alter the original order which I have entered? Is there any reason why I should not handle it that way?

MR. KOENIG: Your Honor, I think in

addition to that, that is proper, but I do think you should indicate that you denied the stay requested by counsel.

THE COURT: Is there any reason why I shouldn't also deny your application for a stay?

MR. NEIDER: Your Honor, if I may just speak as to an administrative matter. Shortly before I appeared this afternoon before your Honor, I was contacted by the Court of Appeals for the Third Circuit requesting for purposes, specifically for purposes of review of plaintiff's application that the, that this Court furnish a written statement dismissing -- as to identifying the reasons as to both the dismissal originally and as to the dismissal of our present application. And I indicated that to your clerk informally and I would just respectfully request that that be accomplished so that the review

could be probably effectuated, your Honor.

THE COURT: All right. Then why don't I do it this way? I have my notes here. Why don't I just read into the record at this time my reasons for my dismissal and failure to grant your application for a stay, and direct you to forth with have the reporter transcribe this and it will serve as my written statement.

MR. NEIDER: Your Honor, we would have obviously no objection to making such a request of the reporter. It is my understanding in terms of the shortness of time, if that can be effectuated, I was asked to forward such a statement this afternoon. I indicated that it was not something within my control. I did not know whether your Honor would be so disposed.

THE COURT: I am going to accommodate you as best I can. My only problem is it is

four o'clock now. I have two cases waiting for me in chambers. I have got a secretary who is loaded up and leaves, incidentally, on Friday at 4:30. The best I can do and I want to accommodate you is to dictate as best I can, and it is not going to be anything of Law Review quality, to the reporter. I will direct that you order the transcript and that will serve as my written statement for purposes of review.

MR. NEIDER: Thank you, your Honor.

(Off the record discussion.)

MR. ELGIN: Your Honor, I was wondering if there was and administrative problem. One way to handle it might be just to issue just a short statement with some reasons to follow or something.

THE COURT: That is what I am going to do. If I have a little bit more time, I would make it more expensive, I would cite some things and put a blue ribbon around it, but

life is short and I have more than I can handle as is.

All right.

(Pause.)

(Opinion of the court previously transcribed under separate cover.)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Docket No. 86-1856 REC

NOTICE OF APPEAL.

STEPHEN A. KOCZAK, 261 Ashmore Avenue Trenton, Mercer County, New Jersey, individually and as he is a voter in Mercer County and a qualified candidate for the nomination of the Democratic Party for office of the U.S. House of Representatives from the fourth congressional district, and as a representative of all registered Democrats in Mercer County and the fourth congressional district who are eligible to run for the office of party nominee for the national legislature, KATHERINE E. ROTTER, 911 Hudson Street, Trenton, Mercer County, New Jersey, and JOHN G. RESCH, 1845 South Clinton Avenue, Trenton, Mercer County, New

Jersey, individually and as registered voters and members of the Mercer County Democratic Party.

Plaintiffs,

v.

G. DALLAS DIXON, 222 South Broad Street, Trenton, Mercer County, New Jersey, individually and as Chairman of the MERCER COUNTY DEMOCRATIC COMMITTEE, Chairman of the Mercer County Democratic Central Committee and leader of the Mercer County Democratic "organization"; "THE MERCER COUNTY DEMOCRATIC COMMITTEE 901 South Broad Street, Trenton, Mercer County, New Jersey, the MERCER COUNTY DEMOCRATIC CENTRAL COMMITTEE, 222 South Broad Street Trenton, New Jersey, JEFFREY LAURENTI, 464 Hamilton Avenue, Trenton, Mercer County, New

Jersey, individually and a Democratic candidate for the fourth congressional district; HOWARD KAYE, 102 Graf Avenue, Lawrenceville, Mercer County, New Jersey, individually and representative of those who serve on both defendant committees; GERALD STOCKMAN, 176 West State Street, Trenton, Mercer County, New Jersey, individually and as a public officeholder; LOUISE LOMMA, 1501 Parkside Avenue; Ewing, Mercer County, New Jersey; JANE BURGIO, 405 West State Street, Trenton, Mercer County, New Jersey, individually and as Attorney General of the State of New Jersey; THOMAS H. KEAN, State Capitol, Trenton, Mercer County, New Jersey individually and as Governor of the State of New Jersey.

Defendants.

Notice is hereby given that STEPHEN A. KOCZAK, KATHERINE E. ROTTER and JOHN E. RESCH, plaintiffs above named, hereby appeal to the United States Court of Appeals for the Third Circuit from the final judgement dismissing the cause for alleged want of a federal question entered in this matter on the 21st day of May 1986.

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CONSTITUTIONAL PROVISIONS AND STATUTES WHICH THE CASE INVOLVES: APP 38

Constitutional Provisions

Art.I, Sec.2, Cl.1:

"The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous branch of the State Legislature."

Art.I, Sec.4, Cl.1:

"The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

Art.VI, Cl.2:

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

Art.VI, Cl.3:

"The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution;"

First Amendment:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people peacably to assemble, and to petition the government for a redress of grievances."

Fourteenth Amendment, Sec.1:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Fourteenth Amendment, Sec.2:

"Representatives shall be apportioned among the several States according to their respective numbers, counting the

whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial Officers of a state, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

Statutes of the United States:

28 U.S.C. 1254 (2):

"Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

...

(2) By appeal by a party relying on a State statute held by a court of appeals to be invalid as repugnant to the Constitution, treaties or laws of the United States, but such appeal shall preclude review by writ of certiorari at the instance of such appellant, and the review on appeal shall be restricted to the Federal Questions presented."

28 U.S.C. 1331:

"The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States."

28 U.S.C. 1343:

"(a) The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;

(2) To recover damages from a person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution

of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;

(4) To recover damages or to secure equitable or other relief under any Act of congress providing for the protection of civil rights, including the right to vote."

28 U.S.C. 1652 (The Rules of Decision Statute):

"The laws of the several states, except where the Constitution or treaties of the United States or Acts of Congress otherwise require or provide, shall be regarded as rules of decision in civil actions in the courts of the United States, in cases where they apply."

28 U.S.C. 2201:

"In a case of actual controversy within its jurisdiction,...,any court of

the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such."

28 U.S.C. 2202:

"Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment."

42 U.S.C. 1983:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the

District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia."

42 U.S.C. 1985:

"...

(3)If two or more persons in any State or Territory conspire...for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal

privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such Stte or Territory the equal protection of the laws;...; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in futherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned hy such injury or deprivation, against any one or more of the conspirators."

42 U.S.C. 1986

"Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in the preceding section, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined by as defendants in the action...."

42 U.S.C. 1988:

"The jurisdiction in civil...matters conferred on the district courts by the provision of this Title, and of Title

"CIVIL RIGHTS," and of Title "CRIMES," for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause,... In any action or proceeding to enforce a provision of sections 1977, 1978, 1979,

1980, and 1981 of the Revised Statutes [42 U.S.C. Secs. 1981-1983, 1985, 1986],... the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs."

New Jersey Statutes:

N.J.S.A. 19:1-1:

"...

"'Primary election' means the procedure whereby the members of a political party in this Stte or any political subdivision thereof nominate candidtes to be voted for at general elections, or elect persons to fill party offices, or delegates and alternates to national conventions.

...

"'Political party' means a party which, at the election held for all of the members of the General Assembly next

preceding the holding of any primary election held pursuant to this Title, polled for members of the General Assembly at least ten per centum (10%) of the total vote cast in this State.

"'Party office' means the office of delegate or alternate to the national convention of a political party or member of the State, county or municipal committees of a political party."

N.J.S.A. 19:5-1:

"A political party may nominate candidates for public office at primary elections provided for in this Title, elect committees for the party within the State, county or municipality, as the case may be, and in every other respect may exercise the rights and shall be subject to the restrictions herein provided for political parties;..."

"As amended L.1948,c.438,p.1696,Sec.4."

"Historical Note

"Source. L.1930,c.187, Sec.44,p.689."

N.J.S.A. 19:5-3:

"The members of the county committees of political parties shall be elected annually at he primary of the general election in the manner provided in this Title for the selection of party candidates to be voted for at the general election by voters of a municipality. The county committee shall consist of one male and one felmale member from each unit of representation in the county. The male receiving the highest number of votes among the male candidates and the female receiving the highest number of votes among the female candidates shall be declared elected. Members of the county committee shall actually reside in the districts or units which they respectively represent. The county committee shall

determine by its bylaws the units into which the county shall be divided for purpose of representation in the county committee.

"The members of the county committee of each of the political parties shall take office on the first Saturday following their election, on which day the terms of all members of such committees theretofore elected shall terminate. The annual meeting of each county committee shall be held on the first Tuesday following the primary election, except that when such meeting day falls on a legal holiday then the said meeting shall be held on the day following, and when such meeting day falls on the day of a municipal runoff election within the county then said meeting may be held on the day following, at an hour and place to be designated in a notice in writing to be mailed by the chairman of the outgoing

county committee to each member-elect, at which annual meeting the members of such committee shall elect some suitable person as chairman who shall be a resident os such county to hold office for 1 year, or until his successor is elected. The members shall also elect a vice-chairman of the opposite sex of the chairman to hold office for 1 year or until his or her successor is elected and the vice-chairman shall perform all duties required of him or her by law and the constitution and bylaws of such committee. Such committee shall have power to adopt a constitution and bylaws for its proper government. The chairman shall preside at all meeetings of the committee and shall perform all duties required of him by law and the constitution and bylaws of such committee.

"When a member of a county committee ceases to be a resident of the district or unit from which elected, a vacancy on the

the county committee shall exist. A member of a county committee of any political party may resign his office to the committee of which he is a member, and upon acceptance thereof by the committee a vacancy shall exist. A vacancy in the office of a member of the county committee of any political party, caused by death, resignation, failure to elect or otherwise, shall be filled for the unexpired term by the municipal commmittee of the municipality wherein the vacancy occurs, if there is such committee, and if not, by the remaining members of the county committee of such political party representing the territory in the county in which such vacancy occurs.

"The chairman of the county committee of the several political parties shall before April 1, certify to the clerk of each municipality in the county the unit of representation in such municipality,

together with the enumeration of the election district or districts embraced within such unit."

"Amended by L.1964,c.23,Sec.1; L.1965,c.4, Sec.3; L.1966,c.19,Sec.2; L.1967,c. 7, Sec.2;L.1967,c.27,Sec.2,eff.April 21, 1967; L.1968,c.292,Sec.2,eff.Sept.6,1968; L.1978,c.29,Sec.1,eff.June 7,1978; L.1979, c.458,Sec.2,eff.Feb.27,1980; L.1980,c.105,Sec.3,eff.Sept.11,1980."

N.J.S.A. 19:5-3.1

"In the time intervening between a primary election at which the members of a county committee of a political party are elected and the annual meeting of the county committee as provided by R.S. 19:5-3, any person elected to membership on that county committee at that election may request, in writing and by certified mail, either access to the complete financial records of the county committee or a copy

of the balance sheet of the county committee showing the assets and liabilities of the county committee as of the close of business on the date of that primary election. The person requesting that access or copy of the balance sheet shall receive the access or copy so requested within 48 hours of the receipt of that request by the committee. L.1983,c.579, Sec.23,eff. Jan. 17, 1984."

N.J.S.A. 19:5-5:

"Any state committee, county committee or municipal committee of any political party may receive and disburse money for the general purpose of maintaining such organiaation during the whole or any part of the year. The expenses for maintenance of organization shall be confined to the hiring of suitable rooms for meetings of such committee, for stationery, for hiring of necessary clerks, for the expenses of

of necessary clerks, for the expenses of notices of the meetings of such committee, for giving publicity to the policies and candidates of their respective party organizations, and other expenses incidental to the maintenance of such organization.

"Within twenty days after the day of the general election, the person who has had the custody of the moneys contributed to or on account of any state, county, or municipal committee during the previous year shall file with the secretary of state in the case of the state committee, and with the county clerk in the case of the county or municipal committee, a statement of the amount of money received by or on behalf of such committee during the previous year, together with the names and addresses of the persons from whom the money was received, and also a statement of the purposes for which it was expended,

itemized as to all items in excess of five dollars, and with a general statement as to the purposes for which the items less than five dollars were expended. The person making such statement shall make affidavit that the same is true."

N.J.S.A. 19:23-5:

"Candidates to be voted for at the primary election for the general election shall be nominated exclusively by the members of the same political party by petition in the manner herein provided.

"Historical Note

"Source. L.1930,c.187, Par.270,p.792."

N.J.S.A. 19:23--17:

"Any person indorsed as a candidate for nomination for any public office or party position whose name is to be voted for on the primary ticket of any political party, may, by indorsement on the petition

of nomination in which he is indorsed, request that there be printed opposite his name on the primary ticket a designation, in not more than six words, as named by him in such petition, for the purpose of indicating either any offical act or policy to which he is pledged or committed, or to distinguish him as belonging to a particular faction or wing of his political party; provided, however, that no such designation or slogan shall include or refer to the name of any person or any incorporated association of this State unless the written consent of such person or incorporated association of this State has been filed with the petition of nomination of such candidate or group of candidates. As amended L.1944, c.231, p.787,Sec.1."

"Historical Note

"Source. L.1930,C.187, Par.282,p.798"

N.J.S.A. 19:34-33:

"No state, county or municipal committee or organization of any political party shall expend any money in aid of the candidacy of any candidate for election as a delegate at any national convention, or election to any party position, or for nomination as a candidate of a political party for public office."

"Historical Note"

Source. L.1930,c.187, Par. 465,p.895"

N.J.S.A. 19:34-52:

"No state, county or municipal committee of any political party shall prior to any primary election indorse the candidacy of any candidate for a party nomination or position."

"Historical Note"

"Source. L.1930, c.187, Par. 484, p.906"